## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNI	TED STATES OF AMERICA	) ) 8:05CR365			
	Plaintiff,	)			
	VS.	) DETENTION ORDER			
MAT	THEW J. LAYTON,	)			
	Defendant.	)			
F	Order For Detention After the defendant waived a detention hearing pursuant to 18 U.S.C.§ 3142(f) of the Bail Reform Act on October 14, 2005, the Court orders the above-named defendant detained pursuant to 18 U.S.C.§ 3142(e) and (i).				
-	<ul> <li>Statement Of Reasons For The Detention</li> <li>The Court orders the defendant's detention because it finds:         <ul> <li>X</li> <li>By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required.</li> <li>X</li> <li>By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person or the community.</li> </ul> </li> </ul>				
\	distribute in excess of 50 21 U.S.C. § 846 carri imprisonment and a maxii (b) The offense is a crime of (c) The offense involves a na	Report, and includes the following: offense charged: to distribute and possess with intent to grams of methamphetamine in violation of es a minimum sentence of ten years mum of life imprisonment.			
-	affect whether the de The defendant has noted to the defendant has noted to the defendant is noted to the defendant has noted to	rars to have a mental condition which may be seen and will appear. To family ties in the area. To steady employment. To substantial financial resources. To a long time resident of the community. The not have any significant community ties. The stery relating to drug abuse. Thistory relating to alcohol abuse. To significant prior criminal record. The prior record of failure to appear at court			

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			X Probation
			Parole
			Release pending trial, sentence, appeal or completion of
		(0)	sentence.
		(C)	Other Factors:
			The defendant is an illegal alien and is subject to deportation. The defendant is a legal alien and will be subject to deportation
			if convicted.
			The Bureau of Immigration and Custom Enforcement (BICE) has placed a detainer with the U.S. Marshal.
V	(4)	Thom	Other:other:
<u>X</u>	(4)		ature and seriousness of the danger posed by the defendant's release
			follows: The defendant has a history of substance abuse. He was on tion from a felony conviction in Louisiana at the time of this offense.
Χ	(5)	Rehu	ttable Presumptions
	(3)		ermining that the defendant should be detained, the Court also relied on
			llowing rebuttable presumption(s) contained in 18 U.S.C. § 3142(e)
			the Court finds the defendant has not rebutted:
	X		That no condition or combination of conditions will reasonably assure
		_ (5)	the appearance of the defendant as required and the safety of any
			other person and the community because the Court finds that the crime
			involves:
			(1) A crime of violence; or
			X (2) An offense for which the maximum penalty is life
			imprisonment or death; or
			X (3) A controlled substance violation which has a maximum
			penalty of 10 years or more; or
			(4) A felony after the defendant had been convicted of two or
			more prior offenses described in (1) through (3) above, and
			the defendant has a prior conviction for one of the crimes
			mentioned in (1) through (3) above which is less than five
			years old and which was committed while the defendant was
		4. \	on pretrial release.
	<u>X</u>	_ (b)	That no condition or combination of conditions will reasonably assure
			the appearance of the defendant as required and the safety of the
			community because the Court finds that there is probable cause to
			believe:
			X (1) That the defendant has committed a controlled substance
			violation which has a maximum penalty of 10 years or more.
			(2) That the defendant has committed an offense under 18
			U.S.C. § 924(c) (uses or carries a firearm during and in
			relation to any crime of violence, including a crime of
			violence, which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or
			device).
			action.

## D. Additional Directives

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

1. The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal; and

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- 2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
- 3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: October 14, 2005. BY THE COURT:

s/Thomas D. Thalken United States Magistrate Judge